

McHale, Juanita (DOE)

From: McHale, Juanita (DOE) on behalf of Wright, Patricia (DOE)
Sent: Wednesday, February 12, 2014 4:33 PM
To: McHale, Juanita (DOE)
Cc: DOE - ESEA
Subject: SUPT'S E-MAIL: Update on Virginia's Application for a One-Year Extension of Waivers from Certain Requirements of the Elementary and Secondary Education Act of 1965 (ESEA)
Attachments: Attachment_A_ESEA_Flexibility_Extension_Invitation.pdf; Attachment B Summary_No_Backslide_Revision.docx

Background on ESEA Flexibility

In September 2011, the U.S. Department of Education (USED) offered states flexibility regarding specific requirements of the *Elementary and Secondary Education Act of 1965* (ESEA), as amended by the *No Child Left Behind Act of 2001* (NCLB), in exchange for rigorous and comprehensive state-developed plans designed to improve educational outcomes for all students, close achievement gaps, increase equity, and improve the quality of instruction (ESEA flexibility). To be granted flexibility from ESEA requirements, states had to submit applications requesting waivers and outlining the state-developed plans to accomplish the goals above by implementing reforms aligned with the following principles:

- Principle 1 – College- and career-ready standards and high-quality assessments to ensure that every student graduates from high school college and career ready;
- Principle 2 – Targeted and differentiated accountability systems, rigorous supports and interventions to the lowest-performing schools and schools with the lowest graduation rates, and identification of support to low-achieving students based on need; and
- Principle 3 – Teacher and principal evaluation and support systems that provide teachers and principals with the feedback and support needed to improve practice and increase student achievement.

Virginia submitted its waiver request to USED in February 2012, or “Window 2” of the submission process. After numerous amendments, the final revised ESEA flexibility application was approved in March 2013. The terms of the waiver are effective for two years, through the end of the 2013-2014 school year.

One-Year ESEA Flexibility Extension

In November 2013, USED issued a letter to state superintendents (Attachment A) inviting “Window 1” and “Window 2” states to request a one-year extension of ESEA flexibility through the end of the 2014-2015 school year. A state seeking an extension of ESEA flexibility must:

1) submit a letter to USED requesting an extension of ESEA flexibility and describing how the flexibility has been effective in enabling the state to carry out the activities for which the flexibility was requested and how the flexibility has contributed to improved student achievement; and 2) resolve any state-specific issues and or action items identified as a result of USED’s Part B monitoring of ESEA flexibility, including by submitting, as necessary and where applicable, a revised application. A state may also submit additional amendment requests through a revised application.

States must submit ESEA flexibility extension requests to USED by February 28, 2014, or within 60 days of receipt of the ESEA flexibility Part B monitoring report. On September 30, 2014, USED conducted Part B monitoring of the state’s implementation of ESEA flexibility provisions. Virginia has not yet received an official monitoring report from USED.

Virginia plans to request the one-year extension for ESEA flexibility. As part of the request, the state will include an amended ESEA flexibility application with updates to Principles 1 and 3. The Department also anticipates requesting an amendment to Principle 2.

Amendment to Principle 2 – Methodology to Calculate Annual Measurable Objectives (AMOs) and School Accountability Determinations

At its October 2012 meeting, the Virginia Board of Education approved and USED accepted a revised annual measurable objective (AMO) methodology applied to a six-year trajectory. The methodology requires lower-performing subgroups to make greater gains in pass rates to close the achievement gap in reading and mathematics. The Board also established new continuous progress expectations for higher-performing subgroups. The policy requires that subgroups with a prior year pass rate higher than the current year's target maintain or exceed the prior year pass rate, within five percent, and up to 90 percent. Also, subgroups with a starting pass rate higher than the required Year 6 pass rate are expected to make continuous progress. To mitigate the unintended consequences of the higher expectations embedded among the provisions to meet AMOs, the Department of Education will propose to the Board that these higher expectations be used as an incentive for schools and subgroups. Additional details about the proposed change to the AMO methodology and its effect on school accountability determinations are available in Attachment B.

Virginia Board of Education Review and Submission to USED

On Thursday, February 27, 2014, the Board will receive for first review Virginia's amended ESEA flexibility application. The full Board item and application will be accessible at the following link beginning February 20, 2014: <http://www.doe.virginia.gov/boe/meetings/index.shtml>. It is anticipated that the amended application will be presented to the Board of Education for final review on March 27, 2014, pending Virginia's timely receipt of USED's ESEA flexibility Part B monitoring report. Following the Board's final review of the amended application, Virginia will submit to USED a one-year extension of ESEA flexibility along with the amended application.

Comments or questions regarding Virginia's revised ESEA flexibility application or the ESEA flexibility extension process may be submitted to ESEA@doe.virginia.gov.



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

Attachment A

November 14, 2013

Dear Chief State School Officer:

As you know, in September 2011, the U.S. Department of Education (ED) offered each State educational agency (SEA) the opportunity to request flexibility from the one-size-fits-all requirements of the No Child Left Behind Act of 2001 (NCLB) on behalf of itself, its local educational agencies (LEAs), and schools. Today, 42 States, the District of Columbia, and Puerto Rico have been granted flexibility under the Elementary and Secondary Education Act (ESEA flexibility) in exchange for rigorous and comprehensive State-developed plans designed to improve educational outcomes for all students, close achievement gaps, increase equity, and improve the quality of instruction. States are taking advantage of the opportunity offered under ESEA flexibility to bring to fruition innovative ideas developed at the State and local level, and we are already seeing signs of promise as a result of your hard work.

SEAs approved to begin implementation of ESEA flexibility in the 2012-2013 school year received waivers through the end of the 2013-2014 school year. Throughout implementation of ESEA flexibility, ED has engaged in an ongoing process of working with States and stakeholders to ensure that we are being a good partner in supporting the hard work that we have asked States to engage in. In August of this year, ED released, in draft form under the Paperwork Reduction Act, guidance inviting each SEA that began implementing ESEA flexibility in the 2012-2013 school year (referred to as Window 1 and Window 2 SEAs) to request renewal of those waivers for two additional school years—*i.e.*, through the 2015–2016 school year. Since releasing that guidance, ED received input from a variety of stakeholders and, after considering that input, we have determined that its goals and objectives can be accomplished at this time through a streamlined process that maintains the high bar set with ED's initial approval of ESEA flexibility requests while reducing burden and allowing States to move forward with the hard work of implementing college- and career-ready standards, more effective accountability systems for all students, and teacher and principal evaluation and support systems. As a result, ED is offering an amended waiver extension process in place of the previously announced renewal process.

ED is now offering each Window 1 and Window 2 SEA an opportunity to seek a one-year extension of its ESEA flexibility request through the process described below. This one-year extension will allow SEAs and ED to gather additional information on successes and challenges in the implementation of the reform efforts described above, in order to improve current systems and better support students and teachers.

An SEA seeking an extension of ESEA flexibility must:

- Submit a letter to ED requesting an extension of ESEA flexibility and describing how ESEA flexibility has been effective in enabling the SEA to carry out the activities for which the flexibility was requested and how the flexibility has contributed to improved student achievement.

- Resolve any State-specific issues and “next steps” identified as a result of ED’s monitoring, as well as other outstanding issues related to ESEA flexibility, such as conditions on approval or high-risk status, including by submitting, as necessary and where applicable, a revised request through the existing ESEA flexibility amendment process.

Additionally, an SEA may wish to make additional amendments to its request to support its continuous improvement efforts. Consistent with the existing amendment process, an SEA will need to consult with stakeholders in the State regarding any changes to its approved ESEA flexibility request. This extension process, in combination with our monitoring and technical assistance, will help ED continue to ensure that SEAs are implementing their plans and meeting their commitments to educators, students, parents, and the community in accordance with the principles of ESEA flexibility.

ED will review each extension request against the principles of ESEA flexibility and the requirements of section 9401 of the ESEA. In general, an SEA that receives approval of its extension request will be granted one additional year of ESEA flexibility, through the end of the 2014-2015 school year. While ED’s ongoing ESEA flexibility monitoring will serve as the basis for the extension process and includes an in-depth review of SEA implementation of all elements of ESEA flexibility, it does not address two new elements that were included in the August 29 renewal guidance: the use of Title II, Part A funds for professional development and the equitable distribution of effective teachers. Both of these areas remain a very high priority for ED and will be addressed for every State – not just States approved for ESEA flexibility – outside of the ESEA flexibility process. ED expects all SEAs to continue to move forward with their efforts to support high-quality professional development for teachers, principals, and increase equitable access to effective teachers and principals for all students.

An eligible SEA is invited to submit its request for an extension of ESEA flexibility by February 28, 2014 or 60 days from receipt of its Part B monitoring report, whichever is later. In the coming weeks, ED will conduct outreach, including a webinar on November 19th at 1:00 p.m. EST, for all SEAs eligible for the ESEA flexibility extension. The webinar will be an opportunity for you and your staff to ask questions and learn more about the process. In the meantime, should you have any questions, please do not hesitate to reach out to your ESEA flexibility State contact.

Thank you for your commitment to improving educational outcomes for all students. I look forward to our continued partnership in this critical work.

Sincerely,

/s/

Deborah S. Delisle

Assistant Secretary

**Virginia Department of Education
ESEA Flexibility**

**Summary of Proposed Revision:
Annual Measurable Objective Calculations**

Principle 2 – Targeted and Differentiated Accountability Systems

At its October 2012 meeting, the Virginia Board of Education approved a revised annual measurable objective (AMO) methodology applied to a six-year trajectory. The methodology requires lower-performing subgroups to make greater gains in pass rates to close the achievement gap in reading and mathematics. The Board also established new continuous progress expectations for higher-performing subgroups. The changes in methodology and the higher expectations were subsequently approved by the U.S. Department of Education in March 2013. The policy requires that subgroups with a prior year pass rate higher than the current year's target maintain or exceed the prior year pass rate, within five percent, and up to 90 percent. Also, subgroups with a starting pass rate higher than the required Year 6 pass rate are expected to make continuous progress. Schools with subgroups that do not meet the higher expectations currently receive an accountability status of *Did Not Meet All Federal AMOs – MHE (did not Meet Higher Expectations)*.

The higher expectations were established in an effort to ensure higher-performing subgroups continue to advance their achievement; however, impact data analyzed in fall of 2013 indicate that a disproportionate percentage of schools are adversely affected by one or more subgroups not meeting the higher expectations. As well, the minimum group size reduction from 50 to 30 students in the 2012-2013 assessment year further magnified the impact of the higher expectations. Fluctuations in the number of students in a subgroup from year to year created inconsistencies when comparing a high pass rate in the prior year to the current year's achievement of a different cohort of students. Hence, the Board's policy, which has been coined the "no backsliding" policy, created unintended consequences during 2012-2013 that must be addressed immediately to avoid unfairly labeling schools as not meeting federal AMOs in the fall of 2014-2015 based on assessments administered in 2013-2014.

Schools should maintain high expectations for all subgroups, and in particular, should engage in efforts to maintain exceptional achievement among subgroups demonstrating such achievement. However, to mitigate the unintended consequences of the higher expectations embedded among the provisions to meet AMOs, the higher expectations will be used as an incentive for schools and subgroups. Beginning with the 2014-2015 accountability year (2013-2014 assessment year), a subgroup will be considered as meeting the federal AMOs for reading and mathematics if: 1) the subgroup's current year pass rate meets or exceeds the target; 2) the subgroup's three year average meets or exceeds the target; or 3) the subgroup reduces the failure rate by 10 percent as compared to the prior year (safe harbor). Schools with subgroups that meet the AMOs by the aforementioned provisions, and have one or more subgroups meeting the higher expectations approved by the Board in October 2012, will receive a status of *Met All Federal AMOs and Higher Expectations*. The *Did Not Meet All Federal AMOs – MHE (did not Meet Higher Expectations)* status will be discontinued.